

ISSUE DATE: June 19, 1997

DOCKET NO. P-5446/NA-96-1566

ORDER GRANTING CERTIFICATE OF AUTHORITY WITH CONDITIONS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
Don Storm

Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Otter Com, Inc.
for Authority to Provide Special Access
Services as a Telecommunications Carrier in
Minnesota

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PROCEDURAL HISTORY

On December 12, 1996, Otter Com, Inc. (Otter Com or the Company), a wholly-owned subsidiary of Park Region Mutual Telephone Company (Park Region), filed an application for authority to provide local service. If certified, Otter Com intends to offer special access services to the exchanges of Fergus Falls, Battle Lake, Henning, Breckenridge, and Campbell. US WEST Communications, Inc. (US WEST) currently provides local service to these exchanges.

On January 15, 1997, US WEST filed a petition to intervene pursuant to Minn. Rules, part 7829.0800. US WEST stated that it is directly affected by the proceedings because Otter Com's local services would compete with services offered by US WEST.

On February 24, 1997, the Department of Public Service (the Department) filed comments recommending approval of the petition.

On March 6, 1997, Otter Com filed reply comments.

US WEST also filed reply comments on March 6, 1997. US WEST stated that Otter Com's application for a certificate of authority is confusing in at least two respects. First, the Company states that it intends to provide special access services, but appears to intend to provide end user private line services instead. Second, Otter Com's price list provided with the application does not include some services it either specifically requests authority to provide or appears to intend to provide.

US WEST recommended that the Commission require Otter Com to file a special access tariff reflecting the Company's intent to offer this noncompetitive service. US WEST further asked that Otter Com be required to clarify the terms and conditions of its intended service. The matter came before the Commission for consideration on May 27, 1997.

FINDINGS AND CONCLUSIONS

I. US WEST'S REQUEST TO INTERVENE

Under Minn. Rules, part 7829.0800, subp. 5, a petition to intervene is deemed granted if no objection is filed within 15 days. In this case, no party objected to US WEST's intervention petition. US WEST's request for intervention is granted by operation of the rule.

II. OTTER COM'S REQUEST FOR AUTHORITY

1. The Statutory Standard

The statutory standard for granting local authority to new entrants is found at Minn. Stat. § 237.16, subd. 1(b):

No person shall provide telephone service in Minnesota without first obtaining a determination that the person possesses the technical, managerial, and financial resources to provide the proposed telephone services and a certificate of authority from the commission under the terms and conditions the commission finds to be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with commission rules, and the commission rules.

2. Commission Action

a. The Necessary Technical, Managerial, and Financial Resources

In its application, Otter Com stated that its parent company, Park Region, is an experienced telephone service provider currently offering local service in six Minnesota exchanges. Park Region will coordinate the necessary system maintenance, billing services, and sales and administrative staff to enable Otter Com to provide reliable service to its customers.

Otter Com also provided audited financial statements for Park Region and Otter Com.

Based on its analysis of Otter Com's filings, the Department concluded that the Company possesses the requisite technical, managerial, and financial resources to provide local service in Minnesota. The Commission agrees with the Department's assessment.

b. Other Standards for Certification under Minn. Stat. § 237.16, subd. 1(b)

Under Minn. Stat. § 237.16, subd. 1(b), the terms and conditions under which the applicant will be certified must be consistent with fair and reasonable competition, universal service, the provision of affordable telephone service at a quality consistent with Commission rules, and the

Commission's rules.

These issues cannot be adequately addressed on the basis of the application alone. Filed tariffs and, if necessary, interconnection agreements, allow the consideration of such issues as the exact services proposed; the market and classes of customers targeted; the implications of universal service requirements; quality standards; rates; and terms and conditions of service.

In its filing, Otter Com appears to intend to provide "private line transport service," for which a specific tariff, including terms and conditions of service, should be filed. In order to address the inconsistencies and filing inadequacies raised by US WEST, and to provide the necessary information for the Commission's public interest analysis, Otter Com must file a final tariff for Commission approval. The tariff should include complete and final terms, including implementation dates.

The Commission will further require that Otter Com obtain Commission approval of any interconnection agreement with any affected telephone company prior to the provision of service under this certificate of authority.

Finally, the Commission notes that Otter Com's provision of local service will be subject to the Commission's local competition rulemakings in Docket Nos. P-999/R-95-53, P-999/R-97-609, and P-999/R-97-608, as well as the Federal Telecommunications Act of 1996 and Minnesota Statutes, Chapter 237.

ORDER

1. The Commission grants Otter Com its request for a certificate of authority to provide local service, subject to the following conditions:
 - a. Prior to offering local telecommunications services, Otter Com must file a final tariff for Commission approval. The tariff should include complete and final terms, including implementation dates.
 - b. Prior to the provision of service under this certificate of authority, Otter Com shall obtain Commission approval of any interconnection agreement with any affected telephone company.

- c. Otter Com's provision of local service will be subject to the Commission's local competition rulemakings in Docket Nos. P-999/R-95-53, P-999/R-97-609, and P-999/R-97-608, as well as the Federal Telecommunications Act of 1996 and Minnesota Statutes, Chapter 237.
- 2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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